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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Carrier Branch**

**RESOLUTION T-16687
December 5, 2002**

RESOLUTION

RESOLUTION T-16687. VERIZON CALIFORNIA INC (U-1002-C).
REQUEST TO PROVIDE LOCAL PACKAGE STANDARD, LOCAL
PACKAGE, AND LOCAL AND TOLL PACKAGE, WHICH INCLUDE
CUSTOM CALLING AND CUSTOM LOCAL AREA SIGNALING
SYSTEM (CLASS) FEATURES BUNDLED WITH BASIC RESIDENCE
EXCHANGE SERVICE.

BY ADVICE LETTER (AL) NOS. 9952, 9952-A, AND 9952-B, FILED ON
DECEMBER 21, 2001, JANUARY 14, 2002, AND JUNE 20, 2002,
RESPECTIVELY.

Summary

This resolution modifies and provisionally approves Verizon California Inc.'s (Verizon) request in Advice Letter Nos. 9952, 9952-A and 9952-B (ALs) to offer three packages that consist of flat-rate basic residence exchange service (1FR) plus a bundle of custom calling and Custom Local Area Signaling System (CLASS) features until such time that Verizon establishes permanent price floors for all of the services contained in the proposed offerings. Verizon shall file requests to establish permanent price floors for residential flat rate (1FR) service, Unlimited Residential Zone Usage Measurement (ZUM) service, and its 300 minute IntraLATA toll usage plan within thirty days after final costs are determined in OANAD, and Verizon shall file an advice letter revising the pricing of the packages as necessary to comply with our imputation and price floor rules within thirty days after approved price floors for residential flat rate (1FR) service, Unlimited Residential Zone Usage Measurement (ZUM) service, and its 300 minute IntraLATA toll usage plan are established.

Background

On December 21, 2001, Verizon filed AL No. 9952, supplemented by AL Nos. 9952-A and 9952-B on January 14, 2002 and June 20, 2002, respectively, to offer three telephone service packages that include Custom Calling and CLASS features with 1FR service. The three packages are *Local Package Standard*, *Local Package*, and *Local and Toll Package*. The *Local Package Standard* consists of 1FR service, Unlimited Residential Zone Usage Measurement (ZUM) service, and a choice of up to three vertical features as follows:

Call Waiting/Cancel Call Waiting	Three-Way Calling
Distinctive Ring	Busy Redial
*69	Priority Call
Speed Dialing 30	Caller ID
Flexible Call Forwarding	Anonymous Call Block
Call Block	Do Not Disturb
Select Call Forwarding	

The *Local Package* includes 1FR service, Unlimited Residential ZUM service, plus a choice of four or more of the vertical features listed above. Finally, the *Local and Toll Package* includes 1FR service, Unlimited Residential ZUM service, choice of any combination of the thirteen vertical features listed above, a Home Voice Mail Standard Package, and direct-dialed intraLATA regional toll allowance of 300 minutes of usage per month.¹ Under Verizon's proposal, a ULTS customer would not be eligible to subscribe to the packaged services unless the subscriber agrees to be converted from ULTS to 1FR service.

Notice/Protests

Verizon states that a copy of AL Nos. 9952, 9952-A, and 9952-B, and related tariff sheets were mailed to competing and adjacent utilities and/or other utilities. Notice of the ALs was published in the Commission Daily Calendar of December 28, 2001, January 18, 2002, and June 24, 2002, respectively. On January 22, 2002, the Office of Ratepayer Advocates (ORA) protested the ALs because ORA believes that Verizon's offerings redefine basic service, discriminate against ULTS customers, and do not cover their respective costs.

Verizon responded to ORA's protest on January 29, 2002. Verizon asserts that the service offerings in its ALs do not change the definition of basic service and do not discriminate against ULTS customers. Verizon also contends that each package covers its imputed costs, meets the Category (CAT) II and CAT III bundling requirements set

¹ IntraLATA toll usage exceeding 300 minutes per month will be rated at \$0.05 per minute.

forth in D.96-03-020 and that each service in the bundled packages is offered on a stand-alone basis at a higher rate.

Discussion

Decision (D.) 96-03-020 permits local exchange carriers (LECs) to bundle CAT II and III services “*as long as customers are able to purchase the individual services separately at tariffed rates, and proper imputation of price floors for each separately unbundled CAT II service is verified.*”² The packages offered in the ALs presently do not meet the first requirement because the Unlimited Residential ZUM service contained in the *Local Package Standard*, the *Local Package* and the *Local and Toll Package* can not be purchased separately as an individual service, nor can customers separately purchase the 300 minute intraLATA toll usage plan contained in the *Local and Toll Package* as an individual service.

However, Verizon has requested authority to offer Unlimited Residential ZUM service in AL No. 10129, filed June 20, 2002. AL No. 10129 is pending approval of Verizon’s ZUM price floor. Verizon has not yet requested authority to offer the 300 minute intraLATA toll usage plan as a separately available service. Our grant of interim authority to offer packages containing Unlimited Residential ZUM service or the 300 minute intraLATA toll usage plan will be contingent on the separate availability of these services. Therefore, Verizon may offer packages proposed in the ALs containing Unlimited Residential ZUM service or the 300 minute intraLATA toll usage plan when it has effective tariffs on file for these services, and after Verizon has met the other conditions specified in this resolution.

D.96-03-020 also determined that CAT I services reclassified to CAT II should be priced at their currently tariffed rates with no pricing flexibility until appropriate cost studies are completed, and CAT II price floors are adopted by the Commission. Verizon has requested a price floor for its ZUM service in AL No.10121, filed June 11, 2002, and that request is currently under review by the Commission. Verizon has also filed proposed costs for 1FR in R.93-04-003/I.93-04-002 (OANAD). However, approval of those costs is pending, and the price floor for 1FR can not be established until after costs are determined.

Until final costs are determined in OANAD and Verizon has permanent approved price floors for Unlimited Residential ZUM and 1FR, Verizon may, on an interim basis and after Verizon has satisfied the other conditions contained in this resolution, offer the packages at prices based on price floors developed using current tariff rates for ZUM and 1FR. We will require Verizon to file requests for permanent price floors for Unlimited Residential ZUM and 1FR within thirty days after costs are adopted in OANAD. Verizon shall file an advice letter revising the pricing of the packages as

² D.96-03-020, 65 CPUC 2nd at 194.

necessary to comply with our imputation and price floor rules within thirty days after Verizon has approved price floors for ZUM and 1FR. Verizon's authority to offer the Local Package Standard, the Local Package and the Local and Toll Package will become permanent when the advice letter revising the pricing of the packages to comply with our imputation and price floor rules is approved.

ORA protests that Verizon has not demonstrated its offerings are above cost, and are potentially anti-competitive. Verizon acknowledges that price floors and imputation are required, but asserts its offerings comply with these requirements. Because we provisionally authorize Verizon to offer the packages at prices based on the price floors developed using current tariff rates for ZUM and 1FR until final costs are determined in OANAD, ORA's protest on this issue is rejected.

Redefining Basic Service

ORA protests that, because Verizon's proposed offerings do not demonstrate that they cover their respective costs, Verizon apparently intends to offer the services as redefined basic service. Verizon responds that the service offerings in AL 9952 do not redefine basic service, but are simply optional bundles of existing services.

ORA's argument about redefining basic service is founded on ORA's concern that Verizon's offerings have not been shown to cover their costs. However, Verizon does not assert that its offerings constitute basic service. Moreover, basic (1FR) service continues to be available. Therefore, we conclude that the ALs do not redefine basic service, and ORA's protest on this issue is rejected.

Discrimination

AL 9952 proposes that, "*Universal Lifeline Telephone Service (ULTS) customers that subscribe to either Local Package Standard, Local Package, or Local and Toll Package must agree to be converted from ULTS to Basic Exchange Residential Service.*"³ ORA asserts that, because Verizon's offering includes basic service, then ULTS customers should be eligible to subscribe to the offerings. Verizon responds that the offerings do not discriminate against ULTS customers.

Verizon's response to ORA's protest asserts that making the offerings available to ULTS customers at a discounted rates would violate our price floor rules. Verizon's argument fails to acknowledge that the difference between retail rates and the discounted amount paid by ULTS subscribers is recovered from the ULTS fund. Thus, Verizon receives exactly the same revenue for a flat rate ULTS line as it does for a 1FR line. It simply receives the revenue from different sources.

Verizon also asserts that its packages are not discriminatory because ULTS is a different class of service than basic service. Verizon cites references to PU Codes 871.5, 873(a)(1)

³ Proposed Schedule Cal P.U.C. No. A-40, Sheet 18.18.

and G.O. 153 (2.1.47) to support its position. However, the Universal Service decision defines “basic service” to include, among other things, “*lifeline rates and charges for eligible customers.*” (D.96-10-066, Appendix B, Section 4.B.8)

However, the Commission does not need to find that ULTS is the same class of service as basic service before we may conclude that the ALs are discriminatory. Public Utilities (P.U.) Code § 453(c) states,

“No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.” (Emphasis Added)

Importantly, our decision revising General Order (G.O.) 153 rules governing the ULTS program states,

*“ We believe there should be no limit on the number of lines that ULTS customers may subscribe to. In our view, ULTS customers should have the same freedom as other customers to subscribe to non-ULTS services, such as additional phone lines, so long as ULTS customers are willing to pay the same rates and charges as other customers for non-ULTS services. For the preceding reasons, we shall revise G.O. 153 to permit ULTS customers to subscribe to an unlimited number of additional, non-ULTS residential lines (‘additional lines’).”*⁴

Thus, our rules presently permit ULTS customers to obtain additional non-ULTS lines without losing the ULTS line(s) for which they may continue to be eligible. Verizon may not establish terms and conditions in its tariffs that are contrary to Commission rules or orders, and therefore, Verizon may not require ULTS subscribers to convert to regular service to subscribe to its packages. Without deciding whether ULTS is a different class of service from basic service, we conclude that the ALs unreasonably discriminate against ULTS eligible applicants and subscribers.

Verizon advises the Telecommunications Division (TD) that it believes “ULTS customers are low-income customers that should be encouraged to keep their telephone bills as low as possible.” Verizon also states that “A customer who purchases Local Package and subscribes to all available options would save over 40% as compared to the individual features’ tariffed rates, even before taking into account any ZUM or local directory assistance usage, which are both included in Local Package.” We find that ULTS customers should not be denied potential savings of “over 40%” solely because they are low income subscribers subsidized by the ULTS program. Therefore, we will require Verizon to file a supplement to AL No. 9952 deleting the condition that ULTS customers subscribing to either Local Package Standard, Local Package, or Local and Toll Package must agree to be converted from ULTS to Basic Exchange Residential Service.

⁴ Decision 00-10-028 at 155.

ULTS subscribers should also be able to subscribe to the Local Package Standard, Local Package, and Local and Toll Package containing a ULTS discounted access line. Verizon states in its comments on the draft resolution that “*Denying customers access to Verizon’s Local Packages harms them by restricting their choices to CLEC packages.*” We agree, and find that such harm is as real for ULTS eligible customers as it is for other residential subscribers.

Verizon asserts that the offerings in the ALs are “standardized national offerings” that would be prohibitively expensive to offer to ULTS and measured-rate customers. According to Verizon, if it is required to offer these packages to ULTS and measured-rate customers in California, its economies of scale would be lost. However, Verizon has not presented any data supporting its contention, and we are not persuaded by Verizon’s assertions with respect to ULTS subscribers. Therefore, we will require Verizon to make its packages available to ULTS-eligible subscribers at a discount equal to the subsidy Verizon obtains from the ULTS Fund for the flat rate access line provided to ULTS-eligible subscribers.

ORA protests that Verizon’s offerings also discriminate against measured rate subscribers. Verizon responds that its offerings do not discriminate against measured rate subscribers. Unlike ULTS subscribers, the ALs do not preclude measured rate customers from subscribing to the packages. Therefore, we conclude that the ALs do not discriminate against measured rate subscribers.

Inadequate notice to ULTS subscribers

ORA alleges Verizon provides inadequate notice to ULTS subscribers that they will be precluded from the offerings unless they convert from ULTS to regular service. Verizon states that it has developed special procedures to inform ULTS customers that ordering one of the packages will result in the customer no longer receiving the ULTS rate. However, because we require Verizon to make its packages available to ULTS-eligible subscribers, ORA’s protest concerning notice is moot.

The draft resolution of the TD in this matter was mailed to the parties in accordance with PU Code Section 311(g). Comments were filed on October 22, 2002 by Verizon California, Inc. No reply comments were filed.

In its comments on the draft resolution, Verizon argues that it has requested a price floor for its ZUM service, that the Commission’s approval of Verizon’s ZUM price floor request is overdue and that the ALs should be approved. The interim authority granted to Verizon by this resolution will allow customers to benefit from the proposed offerings while permanent price floors are being established.

Conclusion

Our provisional approval of Verizon's ALs is based on the specifics of the ALs, and does not establish precedent for the contents of future filings or for Commission approval of similar requests.

Findings

1. Decision (D.) 96-03-020 permits local exchange carriers to bundle CAT II and III services as long as customers are able to purchase the individual services separately at tariffed rates, and proper imputation of price floors for each separately unbundled CAT II service is verified.
2. Verizon may not bundle Unlimited Residential ZUM service or the 300 minute IntraLATA toll usage plan offering unless these services are available for purchase separately as individual services.
3. When Verizon has effective tariffs for Unlimited Residential ZUM service or the 300 minute intraLATA toll usage plan, all of the services contained in the *Local Package Standard*, the *Local Package* and the *Local and Toll Package* will be available as individual services that can be purchased separately, as required by D.96-03-020.
4. Until final costs are determined in OANAD and Verizon has permanent approved price floors for Unlimited Residential ZUM and 1FR, Verizon may, on an interim basis, set prices for the packages based on the price floors developed using current tariff rates for ZUM and 1FR.
5. Verizon shall file requests for permanent price floors for Unlimited Residential ZUM and 1FR within thirty days after costs are adopted in OANAD.
6. Verizon shall file an advice letter revising the pricing of the packages as necessary to comply with our imputation and price floor rules within thirty days after Verizon has approved price floors for ZUM and 1FR. Verizon's authority to offer the Local Package Standard, the Local Package and the Local and Toll Package should become permanent when the advice letter revising the pricing of the packages to comply with our imputation and price floor rules is approved.
7. D.00-10-028 permits ULTS customers to obtain additional non-ULTS lines without losing the ULTS line(s) for which they may continue to be eligible.
8. Verizon may not establish terms and conditions in its tariffs that are contrary to Commission rules or orders, and therefore, Verizon may not require ULTS subscribers to convert to regular service to subscribe to its packages.

9. The ALs unreasonably discriminate against ULTS eligible applicants and subscribers.
10. Verizon should be required to file a supplement to AL No. 9952 deleting the condition that ULTS customers subscribing to either Local Package Standard, Local Package, or Local and Toll Package must agree to be converted from ULTS to Basic Exchange Residential Service.
11. Verizon should be required to make its Local Package Standard, Local Package, or Local and Toll Package available to ULTS-eligible subscribers at a discount equal to the subsidy Verizon obtains from the ULTS Fund for the flat rate access line provided to ULTS-eligible subscribers.
12. The ALs do not prohibit measured rate customers from subscribing to the packages, and do not discriminate against measured rate subscribers
13. The ALs do not redefine basic service, so ORA's protest on this issue lacks merit and should be rejected.

THEREFORE, IT IS ORDERED that:

1. Verizon's proposals in AL No. 9952 and its supplements are conditionally approved on an interim basis, and shall become effective after:
 - a. Verizon has effective tariffs offering the individual services contained in the Local Package Standard, the Local Package and the Local and Toll Package, including Unlimited Residential ZUM service and the 300 minute intraLATA toll usage plan, separately;
 - b. Verizon files a supplement to AL No. 9952 deleting the condition that ULTS customers subscribing to the Local Package Standard, Local Package, or Local and Toll Package must agree to be converted from ULTS to Basic Exchange Residential Service; and
 - c. Verizon files a supplement to AL No. 9952 making its Local Package Standard, Local Package, and Local and Toll Package available to ULTS-eligible subscribers at a discount equal to the subsidy Verizon obtains from the ULTS Fund for the flat rate access line in the packages provided to ULTS-eligible subscribers.

2. Until final costs are determined in R.93-04-003/I.93-04-002 and Verizon has permanent approved price floors for Unlimited Residential ZUM and 1FR, Verizon shall, on an interim basis, set prices for the packages based on the price floors developed using current tariff rates for ZUM and 1FR.
3. Verizon shall file requests for permanent price floors for Unlimited Residential ZUM and 1FR within thirty days after costs are adopted in R.93-04-003/I.93-04-002.
4. Verizon shall file an advice letter revising the pricing of the packages as necessary to comply with our imputation and price floor rules within thirty days after Verizon has approved price floors for ZUM and 1FR. Verizon's authority to offer the Local Package Standard, the Local Package and the Local and Toll Package shall become permanent when the advice letter revising the pricing of the packages to comply with our imputation and price floor rules is approved.
5. Verizon's authority to offer the Local Package Standard, the Local Package and the Local and Toll Package shall become permanent when the advice letter revising the pricing of the packages to comply with our imputation and price floor rules is approved.
6. Except as otherwise discussed in this Resolution, ORA's protest is rejected.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 5, 2002. The following Commissioners approved it:

WESLEY M. FRANKLIN
Executive Director